

1 A bill to be entitled
 2 An act relating to arrest booking photographs;
 3 creating s. 501.172, F.S.; defining terms; prohibiting
 4 a person who publishes or disseminates an arrest
 5 booking photograph through a certain medium from
 6 soliciting or accepting payment of a fee or other
 7 consideration to remove, correct, or modify such
 8 photograph; authorizing a civil action; providing
 9 civil remedies; providing a civil penalty; providing
 10 exceptions; amending s. 951.23, F.S.; defining terms;
 11 prohibiting a county or municipal detention facility
 12 from electronically publishing arrest booking
 13 photographs of certain arrestees; providing
 14 exceptions; providing construction; providing an
 15 effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

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 19 Section 1. Section 501.172, Florida Statutes, is created
 20 to read:

21 501.172 Arrest booking photographs.—

22 (1) As used in this section, the term:

23 (a) "Arrest booking photograph" means a photograph of an
 24 arrestee taken for the purpose of recording the arrestee's image
 25 as part of the arrest and booking process.

26 (b) "Arrestee" means an individual who has been arrested

27 for a violation of law in this state.

28 (c) "Fee or other consideration" does not include a fee or
 29 consideration, including attorney fees and costs, solicited or
 30 accepted in connection with the actual or attempted settlement
 31 or compromise of a lawsuit, threatened lawsuit, arbitration
 32 claim, threatened arbitration claim, or other judicial or quasi-
 33 judicial proceeding.

34 (2) A person engaged in publishing or otherwise
 35 disseminating arrest booking photographs through a publicly
 36 accessible print or electronic medium, which is subject to the
 37 jurisdiction of the courts of the state under s. 48.193, may not
 38 solicit or accept a fee or other consideration to remove,
 39 correct, or modify an arrest booking photograph of an arrestee.

40 (3) An aggrieved person may initiate a civil action
 41 against a person if the person violates subsection (2), to
 42 obtain all appropriate relief in order to remedy or prevent a
 43 future violation of subsection (2), including the following:

44 (a) Injunctive relief.

45 (b) A civil penalty of up to \$1,000 per day for each day
 46 of noncompliance with a court order issued in a civil action
 47 under this subsection.

48 (c) Monetary damages to include actual damages incurred as
 49 a result of a violation of subsection (2).

50 (d) Attorney fees and costs.

51 (4) This section does not apply to any state, regional,
 52 county, local, or municipal governmental entity of this state,

53 whether executive, judicial, or legislative, or any department,
 54 division, bureau, commission, authority, or political
 55 subdivision.

56 Section 2. Subsection (12) is added to section 951.23,
 57 Florida Statutes, to read:

58 951.23 County and municipal detention facilities;
 59 definitions; administration; standards and requirements.—

60 (12) ARREST BOOKING PHOTOGRAPHS.—

61 (a) As used in this subsection, the term:

62 1. "Arrest booking photograph" means a photograph of an
 63 arrestee taken for the purpose of recording the arrestee's image
 64 as part of the arrest and booking process.

65 2. "Arrestee" means an individual who has been arrested
 66 for a violation of law in this state.

67 3. "Criminal justice agency" has the same meaning as
 68 provided in s. 943.045, including, but not limited to, county
 69 and municipal detention facilities.

70 (b) A criminal justice agency may not electronically
 71 publish an arrest booking photograph of an arrestee who is
 72 charged with, but not yet convicted of, a criminal offense.

73 (c) Paragraph (b) does not apply to the electronic
 74 publication of arrest booking photographs:

75 1. To governmental entities.

76 2. To third parties that provide electronic criminal
 77 justice services to criminal justice agencies.

78 3. To any entity if the criminal justice agency head, or a

79 designee thereof, decides such publication is necessary to
80 protect public safety.

81 (d) This subsection does not restrict public access to
82 records as provided by s. 119.07.

83 Section 3. This act shall take effect October 1, 2016.